HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

Writ Petition No. 20420 of 2005

Dated: 30th September, 2005

Between:

C.Shashi Kumar S/o.C.Sriramulu,

R/o. Quarter No.192, New MLA Quarters, Hill Port,

Basheerbagh, Hyderabad.

..... PETITIONER

AND

1.Government of Andhra Pradesh, rep. by its Principal Secretary,

Industries and Commerce (M.II) Department, Secretariat,

Hyderabad and others.

.....RESPONDENTS

HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

Writ Petition No. 20420 of 2004

ORDER:

This writ petition has been filed by C.Shashi Kumar assailing the order of the Principal Secretary to Government, Government of Andhra Pradesh, Industries and Commerce (Mines.II) Department, Hyderabad-1st respondent passed in Memo. No.7978/M.II(1)/2004-1 dated 20.09.2004.

2. Dr.Aluri Prabhakiara Rao-4th respondent applied for grant of mining lease. He was granted prospecting licence over an extent of 8.00 hectors in Survey Nos.910/P,

916 and 917 of Pothakamur village hamlet of Batlapalem village, Darsi Mandal, Prakasam District for a period of two years. He was required to execute prospecting licence deed within a period of 90 days as per the provisions of the Andhra Pradesh Minor Mineral Concession Rules, 1966 [for short, 'the Rules). He approached the Director of Mines and Geology, Government of Andhra Praddesh, Hyderabad-2nd respondent for extension of time for execution of prospecting licence deed. Accordingly, the Director of Mines and Geology, Government of Andhra Praddesh, Hyderabad-2nd respondent vide proceedings No.16640/R3(2)/2001, dated 29.06.2002 has granted first extension of time for a period of thirty days for execution of prospecting licence deed. 4th respondent again requested for extension of time for execution of prospecting licence deed. The Director of Mines and Geology conceded the request of the 4th respondent and granted further extension of time. When the 4th respondent failed to execute the prospecting licence deed within fifteen days, a notice was given to him by the Director of Mines and Geology revoking the prospecting licence vide proceedings No.16640/R3(2)/2001-1, dated 17.09.2003. Assailing the revocation proceedings of the Director of Mines and Geology, 4th respondent filed a revision application before the Government under Rule 35-A of the Rules. The Government entertained the revision and granted two months time to the 4th respondent for execution of the prospecting licence deed. Para.5 of the Order passed by the Government in Memo.No.2524/M.II(1/2004-1, dated 10.03.2004 reads as follows:

> "The Revision Application filed by Dr.A.Prabhakar Rao has been examined by Government and hereby allow the Revision Application duly condoning the delay in filing the Revision Application subject to the condition that the area is not granted to any one and grant two months time from the date of receipt of this memo for execution of Licence Deed. Accordingly, the revocation proceedings of Director of Mines and Geology No.16640/R3(2)/2001, dated 17.09.2003 are hereby set aside. He is also informed that no request for further extension of time in future will be entertained under any circumstances, and if he fails to execute the licence deed as indicated above, the Director of Mines and Geology Proceedings dt.17.09.2003 shall automatically come into force."

Subsequently, 4th respondent filed an application before the Government for extension of time giving certain reasons. The Government considered the request of

the 4th respondent and granted extension of time under Memo.No.2535/M.II(1)/2004-1, dated 20.09.2004. Assailing the action of the Government in granting extension of time to the 4th respondent for executing the prospecting licence deed, this writ petition has been filed by petitionver viz., C.Shashi Kumar.

3. Respondent Nos. 1 to 3 together filed counter affidavit and whereas Respondent No.4 filed separate counter affidavit.

4. Heard learned counsel appearing for the petitioner, learned Government Pleader for Mines and Geology appearing for the respondents 1 to 3 and learned counsel appearing for the 4th respondent.

5. Learned counsel for the petitioner submits that the petitioner also applied for grant of prospecting licence in respect of the same area which has been applied for by the 4th respondent. It is his contention had the order of revocation of prospecting licence granted in favour of the 4th respondent has been sustained by the 1st respondent, he would have got the licence over the said area. In support of his contention, he placed reliance on a judgment of our High Court in ***V.Murali v. Government of Andhra Pradesh and others***, wherein it has been held that once the Government rejected the revision filed under Rule 35-A of the Rules against an order refusing to renew the mining lease, subsequent revision is not maintainable.

5. Learned Government Pleader for Mines and Geology appearing for the respondents 1 to 3 submits that a notice has been served on the petitioner for survey of the applied area and the petitioner has not shown any inclination to attend for the survey. He further submits that under the impugned order extension of time has been granted to the 4th respondent and not review of the earlier order and, therefore, it cannot be treated as an order passed on the second revision application.

6. The 4th respondent was granted two months time by the Government in exercise of revisional powers under Memo.No.2524/M.II(1/2004-1, dated 10.03.2004. The 4th respondent sought for extension of time by filing an application before the

Government. The Government taking into consideration of the reasons assigned by the 4th respondent in the application granted extension of time. The lease period is two years and about half of the lease period has been expired as on this day. The contention of the petitioner that the order impugned in the writ petition amounts to reviewing the earlier order passed on 10.03.2004 has no substance since what is granted under the order impugned in the writ petition is only extension of time for execution of prospecting licence deed. The decision relied on by him is not applicable to the facts of the present case. Therefore, the writ petition is wholly misconceived and is liable to be dismissed.

7. Accordingly, the writ petition is dismissed. No costs.

_____

B.SESHASAYANA REDDY, J.

Dated: 30th September, 2005.

cs